

## **DOMESTIC VIOLENCE EVIDENCE BASED PROSECUTION**

*Time is on my side, yes it is  
Time is on my side, yes it is  
Now you always say that you want to be free*

*But you'll come running back  
You'll come running back  
You'll come running back to me  
- Rolling Stones, Time Is On My Side*

City v. Chachi

### **FACTUAL BACKGROUND**

#### **Police Report**

Officer was dispatched to a Medical to a residence in Orem, Utah. I was advised of a 19 year old pregnant female complaining of stomach pain.

#### **Persons Involved:**

Chachi – Arrestee  
Joanie - Victim  
Charles – 3<sup>rd</sup> Party Complainant

#### **Location:**

1313 Mockingbird Lane, Orem, Utah

#### **Charges:**

DV Assault – MB  
Interference of a Communication Device (DV) – MB

#### **Contact with Joanie:**

I arrived and was contacted by a male who advised there was a female on the porch complaining of stomach pains, he also advised it was possibly caused by her husband who lives downstairs. The male directed me to the house and when we came around the corner I observed a Joanie laying on the small porch crying and holding the left side of her lower stomach. I also observed dried blood on the inside of her mouth.

I asked what was wrong? Joanie advised she needed to see a doctor. I advised the paramedics just arrived and they will be here soon. I asked Joanie how she hurt her stomach? Joanie advised she did not want to tell me, then she started to cry harder and again asked for a doctor. I advised Joanie she needed to let me know what happened so the Paramedics could help her. Joanie just cried and did not say anything. I then asked about the blood on her lips and asked if her husband hit her? Joanie said she didn't want to say what happened. I asked Joanie if she got into an argument with her husband? Joanie advised they were fighting, but she didn't want to say what happened, and then asked me not to make her tell me what happened. I asked what the fight was about? Joanie advised she told her husband she was not going to pay for the impound fee to get his car out. I asked if he hit her? Joanie then said in a

high pitch voice "he pulled me across the room by my hair." The Paramedics arrived and transported Joanie to Timpanogos Hospital to be treated. Before Joanie left she advised her husband's name was Chachi.

#### Contact with Chachi

There was a set of stairs leading to a downstairs apartment. I walked down the stairs and knocked on the open door and yelled out "Orem Police Department". Chachi came out of the living room. I asked if he was Chachi? The male advised he was. I asked him what was going on? Chachi advised nothing he was just on the internet looking at something. I asked Chachi to tell me what happened with his wife. Chachi advised he didn't know what I was talking about. I asked if he and his wife had been fighting? He advised they had. I asked about what? Chachi advised Joanie didn't pay the car payment and it got repossessed, and all his money was investments so he couldn't get the vehicle out of impound so they got into an argument. I then asked if it got physical. Chachi advised the only thing that happened was Joanie grabbed a water pitcher and threw it on the ground. I did notice the carpet was wet from water.

Officer Anderson arrived we stepped outside and I started to explain what happened. While speaking with Anderson, Captain Ryan Peterson comes down and advises me they got Joanie to calm down and she told them what had happened. Peterson advised Chachi pushed her head into the keyboard, which caused her lip to be bloody. He then advised Joanie left and spoke with her mother, telling her she wanted to go back to China. When Joanie came back in the argument started up again and Chachi punched her in the back of the head then grabbed her by the hair and dragged her across the room. He also advised Chachi had taken her phone when she tried calling the police.

I went back in and spoke with Chachi again. I asked him to tell me what had happened from the beginning. Chachi advised he had told Joanie he was going to divorce her earlier today, and they got into a tiff then he explained the vehicle issue again. I told him to stop and because he just skipped a huge part when he said they got into a tiff. Chachi advised they argued and Joanie left so he hid her phone in the bathroom. I asked Chachi how did Joanie get the bloody lip? Chachi advised he doesn't know how she got it. He then advised Joanie is crazy enough she probably gave it to herself.

Chachi then state if I would look at her history I would find she was the violent one, and she was the one who was violent tonight. I asked how was she violent? Chachi couldn't really give any on thing Joanie had done. I advised Chachi he was being placed under arrest. Chachi was transported to Utah County Jail and booked in on DV Assault, and Interruption of a Communication Device. After booking Chachi in I met with Joanie at Timpanogos Hospital.

#### Contact with Joanie at the Hospital:

I wanted to speak with Joanie about her speaking with her mother about the fight between her and Chachi. I brought Joanie's cell phone with me and asked her if I could see any message she sent after the fight. Joanie advised she spoke on Skype with her stepmother but it was in Spanish. She also advised she sent texts to a friend but erased them because she didn't want her husband to see them.

I then asked Joanie if she could explain to me what happened at the house and why she wouldn't tell me when I arrived the first time. Joanie advised she didn't want Chachi to get in trouble, and when they first got married she was the violent one and she has hit him before so she thought it wasn't a big deal with what happened. I asked her if she could tell me what happened from the beginning.

Joanie advised they got into an argument about the car and she didn't want to help him get it out of the impound. Joanie advised she was sitting at the computer desk and Chachi pushed her head into the keyboard. She then pointed at a red mark on her upper lip. I asked if that is how her lip got bloody. Joanie advised she doesn't know. Joanie

advised she left for about 20 minutes and returned home so she could get her phone and speak with her parents. Joanie was going to get on the computer and Skype with her parents but the pass code had been changed. Joanie advised the code was "Joanie is a bitch" and she typed it in but it didn't work. Joanie asked Chachi what the code was and he didn't answer her so she stood by the XBox and acted like she was going to turn it off. Chachi told her not to turn it off, Joanie advised she turned the game off and asked him to give her the code. Chachi turned the XBox back on and would not tell her what the code was, so Joanie turned off his game again.

Chachi got back up and slapped her in the back causing her head to hit a bookshelf. Joanie then grabbed the jug of water and threw it at Chachi's legs. Chachi then grabbed her by the hair and dragged her across the room, pushing her face into the door casing. Joanie advised he then threw her into the front room. Joanie tried calling the police, and Chachi took her phone and told her she wasn't going to call the "fucking police" and shut the living room door. Joanie advised that's when she ran upstairs and had the neighbors call the police.

Joanie said she was concerned for Chachi and asked if he was okay. I advised Chachi was arrested and transported to the Utah County Jail. Joanie got very upset and started to blame herself for what happened. I told Joanie it was not her fault, and she advised Chachi was stressed, so she understood why he acted like he did. I told Joanie I have been stressed and the thought of beating my wife has never crossed my mind. I told her stress does not give anybody the right to treat their spouse how she was treated.

I did not have a DV pamphlet, but I did advise Joanie of the options and support she had. I advised her to call the Victim Advocates and set up a time to come in and speak with them. Joanie was complaining that her hip hurt. I asked if there was bruising. She advised no there was not. I asked her to come in if bruising appears so we could document the injury properly. Joanie advised she would call the victim advocates today.

I did fill out the DV checklist and the report was printed and sent to the Victim Advocates. Chachi was also given a No Contact Order. I explained the order, and he advised he understood what was being told to him. Joanie filled out a statement and it will be attached to this report.

### Dispatch Notes

Code 3 - 19 yo fem, cons/breathing; 3-4 months along.

1:40:27 - female was screaming in pain, trying to find out what's happening.

### 9-1-1 Call

At 1:39 a.m., on July 4, 2013, Department of Public Safety receives a 9-1-1 call. As the 9-1-1 operator picks up the call, a female's voice declares "*Oh my God, Oh my God*". In the background a female can be heard crying. As the dispatcher address the caller, the first remark from the caller is "I need an ambulance right now." The dispatcher proceeds to get the address. The caller is very excited, requesting that police be sent. The caller urgently requests that they be sent, stating "Please send the police, please, please, please send the police". The dispatcher tells the caller to calm down and asks the caller "What is going on?" The caller than states, "Her husband hit her and she's pregnant right now, and maybe she will lose the baby, please come right now". The dispatcher asks the caller for information about the victim, her age and whether the victim is bleeding. The caller responds, "I don't know, just come".

The female caller gives the phone to a male individual. The dispatcher attempts to get identifying information about the victim from the male. The male states, "I don't know, she is sitting in front of our door, she's been screaming, I'm not sure she is bleeding." The dispatcher asks if the victim is conscious, the male replies "She is in pain". The operator again asks if the victim is conscious, ultimately the male says that she is conscious. The dispatcher asks how far along, in the pregnancy, is the victim, the male responds that she is a couple of months along. The dispatcher asks, "and she [the victim] believes that she is going to have a miscarriage?" The male responds "Uh...maybe or probably, she got hit by . . . hit . . . uh . . . husband or something that is probably the reason." The dispatcher ask if the male knows if the victim is bleeding, he states that he does not. The dispatcher asks the male to get closer to the victim, so she can ask some questions about the victim. In the background, crying can be heard. The dispatcher tries to give some directions to the male caller, he states "Listen, she got, she got hit by her husband on her stomach, she is pregnant, she is sitting in front of our door, that is all the questions that I can answer for you right now." The dispatcher asks if he can give the phone to somebody else, the male then states "I'm hanging up".

The dispatcher tells the male caller not to hang up. The call goes dead.

The entire length of the 9-1-1 call is 2 minutes 59 seconds.

Radiolog

Unit:	Officer 1	Enroute: 1:40:27 Arrived: 1:44:46 Completed: 3:27:31
	Officer 2	Enroute:1:46:20 Arrived: 1:52:38 Completed :2:09:17
	Rescue	Enroute: 1:40:46 Arrived: 1:57:22 Completed: 2:25:06
	Fire Truck	Enroute: 1:40:46 Arrived: 1:45:39 Completed: 1:58:53

Fire/Paramedic Report

## Patient Name

- Joanie

## Personnel On Scene

-Batty, Godfrey, Taylor, Peterson

## Chief Complaint

- Lower left abdominal pain

## History

- Patient was pushed to the ground by her spouse. Pt. stated they had two arguments this evening, involving multiple physical assaults by her spouse. Pt. is 11 weeks pregnant

## Assessment

- Pt. GCS was 15, no loss of consciousness. Pt. complained of pain in her lower left abdominal area. Pt. stated pain was from the left groin area up and round the left side. No signs of injury present, although there was pain upon palpitation of that area. Pt. vital obtained and monitored. pt. lung sound clear and equal in all fields. No other complaints made nor injuries found upon completion of the assessment.

### PROCEDURAL HISTORY

Chachi is charged, by formal information, with two counts: I - DV ASSAULT OF A PREGNANT PERSON (MA); II - DV DAMAGE TO OR INTERRUPTION OF A COMMUNICATION DEVICE (MB).

Chachi is arraigned, represented by counsel, and enters pleas of Not Guilty. Chachi requests a Jury Trial.

Prosecution office serves a witness subpoena on Joanie

6 Days prior to trial, Chachi's attorney appears in Prosecution office with Joanie, informing Prosecution that she intends to invoke her Spousal Immunity Privilege.

5 days prior to trial, defense counsel file a Motion in Limine to Exclude All Hearsay Statements. Motion is based on Spousal Immunity Privilege and Crawford.

### WHAT DO YOU?